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COMMITTEE ON THE RIGHTS OF THE CHILD

# CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

**Initial reports of States parties due in 1995**

*Addendum*

## ALGERIA

[16 November 1995]

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CONTENTS


| | | *Paragraphs* | *Page* |
|---|---|---|---|
| Introduction | | 1 - 5 | 4 |
| I. | DEFINITION OF THE CHILD | 6 - 11 | 4 |
| II. | GENERAL PRINCIPLES | 12 - 27 | 6 |
| A. | Non-discrimination (art. 2) | 12 - 15 | 6 |
| B. | Best interests of the child (art. 3) | 16 - 21 | 7 |
| C. | Right to life, survival and development | 22 - 26 | 9 |
| D. | Respect for the views of the child (arts. 12 and 13) | 27 | 10 |
| III. | CIVIL RIGHTS AND FREEDOMS | 28 - 58 | 10 |
| A. | Name and nationality (art. 7) | 28 - 36 | 10 |
| B. | Preservation of identity (art. 8) | 37 - 39 | 11 |
| C. | Freedom of expression | 40 | 12 |
| D. | Access to appropriate information (art. 17) | 41 - 45 | 12 |
| E. | Freedom of thought, conscience and religion (art. 14) | 46 - 48 | 12 |
| F. | Freedom of association and of peaceful assembly (art. 15) | 49 - 50 | 13 |
| G. | Protection of privacy (art. 16) | 51 - 53 | 13 |
| H. | The right not to be subject to torture or other cruel, inhuman or degrading treatment or punishment (art. 37) | 54 - 58 | 13 |
| IV. | FAMILY ENVIRONMENT AND ALTERNATIVE CARE | 59 - 86 | 15 |
| A. | Parental guidance (art. 5) | 59 | 15 |
| B. | Parental responsibilities (art. 18) | 59 | 15 |
| C. | Separation from parents (art. 9) | 60 - 61 | 15 |
| D. | Family reunification (art. 10) | 62 - 63 | 16 |
| E. | Recovery of maintenance for the child (art. 27) | 64 - 67 | 16 |
| F. | Children deprived of a family environment (art. 20) | 68 - 71 | 17 |
| G. | Adoption | 72 | 18 |
| H. | Illicit transfer and non-return (art. 11) | 73 - 77 | 18 |
| I. | Abuse and neglect (art. 19), physical and psychological recovery and social reintegration (art. 39) | 78 - 85 | 19 |
| J. | Periodic review of placement (art. 25) | 86 | 21 |
| V. | BASIC HEALTH AND WELFARE | 87 - 103 | 21 |
| A. | Survival and development (art. 6) | 87 - 89 | 21 |
| B. | Disabled children | 90 - 92 | 22 |
| C. | Health and health services (art. 24) | 93 - 99 | 22 |
| D. | Social security and child-care services and facilities (arts. 18 and 26) | 100 - 102 | 23 |
| E. | Standard of living (art. 27) | 103 | 24 |

CONTENTS *(continued)*


| | | *Paragraphs* | *Page* |
|---|---|---|---|
| VI. | EDUCATION, LEISURE AND CULTURAL ACTIVITIES | 104 - 112 | 24 |
| | A. Education, including vocational training and guidance (art. 28) | 104 - 108 | 24 |
| | B. Aims of education (art. 29) | 109 - 111 | 24 |
| | C. Leisure, recreation and cultural activities (art. 31) | 112 | 25 |
| VII. | SPECIAL PROTECTION MEASURES | 113 - 185 | 26 |
| | A. Children in conflict with the law | 113 - 129 | 26 |
| | B. Treatment of children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37) | 130 - 148 | 28 |
| | C. Physical and psychological recovery and social reintegration (art. 3) | 149 - 182 | 31 |
| | D. Children belonging to a minority or an indigenous group (art. 30) | 183 - 185 | 36 |

## Introduction

1. The Convention on the Rights of the Child, adopted by the United Nations General Assembly (resolution 44/25 of 2 November 1989), was ratified by Algeria on 19 December 1992, by Presidential Decree No. 92-461, in conformity with article 122 of the Constitution, which provides that treaties concerning the status of persons are ratified by the President of the Republic.

2. The provisions of this international instrument came into force for Algeria on 16 May 1993.

3. Since its independence, in 1962, Algeria has adopted a number of laws, regulations and administrative and social measures to protect the interests of the child. One reflection of this is the enormous effort to provide children with schooling. Another is the legal protection for children, in general, and the assumption by State institutions of direct responsibility for the most needy categories.

4. This initial report, submitted in accordance with article 44 of the Convention, summarizes the measures taken to protect the rights of the child. Various ministerial departments involved in implementing these measures have participated in its preparation.

5. Many associations have been established to support the reforms and they are gradually assuming a role of partnership with the public authorities in the effort to protect human rights.

## I. DEFINITION OF THE CHILD

6. Algerian legislation is in conformity with article 1 of the Convention on the Rights of the Child which provides that, in general, a child is a "human being below the age of eighteen years".

7. The definition of the child in Algerian law can be inferred from various provisions:

(a) Article 40, paragraph 2, of the Civil Code (Ordinance No. 75-58 of 26 September 1975) fixes the age of civil majority at 19 years;

(b) Article 442 of the Code of Penal Procedure (Ordinance No. 66-155 of 8 June 1966) lays down that "the age of criminal majority is 18 years". Article 443 of the same Code stipulates that the age to be used in determining whether or not an offender is of age is the age on the date of the offence;

(c) As regards education, article 5 of the Ordinance of 16 April 1976 lays down that "education is compulsory for children aged between 6 and 16 years";

(d) The texts governing vocational training guarantee "children over 15 years of age" whose school results were not good enough for them to progress to secondary education the opportunity of a minimum of two years' free training to provide them with a skill;

(e) Ordinance No. 75-31 of 29 April 1975, relating to "general labour conditions", stipulates that the minimum age for work is 16 years (article 180). Article 182 prohibits the employment of young people under the age of 16 years except where an exemption is granted by the Minister of Labour and Social Welfare in the case of certain fixed-term temporary jobs;

(f) Ordinance No. 74-103 of 15 November 1974 establishing the National Service Code sets the call-up age at 19 (article 1). Article 98 postpones call-up if the individual concerned is pursuing studies until the student has reached the age of 27 years;

(g) Act No. 84-11 of 9 June 1984 establishing the Family Code stipulates, in article 7, that the marriageable age is 21 years for men and 18 years for women;

(h) Article 93, paragraph 2, of the Code of Penal Procedure lays down that "minors aged under 16 years" may be heard without having to swear an oath and that their testimony is used for information purposes only;

(i) Article 444 of Act No. 82-03 of 13 February 1982, amending the Code of Penal Procedure, provides that, in the case of a serious or ordinary offence, a child aged under 18 years may be subjected only to one or more of the precautionary or re-education measures listed below:

Restoration to his parents, his legal guardian or a person worthy of trust;

Non-custodial supervision;

Placement in an authorized institution or educational or vocational training establishment;

Placement in an authorized medical or medical-pedagogical establishment;

Placement by the public service responsible for assistance;

Placement in a boarding school suitable for juvenile delinquents of school age.

A minor aged over 13 may, however, be placed in a public supervised-education or corrective-education institution.

8. In all cases, the above measures must be ordered for a specified time, which may not extend beyond the date on which the minor attains civil majority. Article 446, paragraph 3, of the same Ordinance stipulates that, if a contravention is established, the court may either simply issue a warning or apply the fine set out in law. However, a minor aged under 13 may only be given a warning.

9. Article 456 lays down that an offender who has not reached the age of 13 years may not, even temporarily, be placed in a prison establishment. Similarly, an offender aged between 13 and 18 years may be placed in a prison establishment only if a provisional measure to that effect seems indispensable or if it is impossible to make any other arrangement. In that case, the minor shall be kept in a special section or, failing this, in a special area. As far as possible, the minor shall be isolated at night.

10. Ordinance No. 66-156 of 8 June 1966 establishing the Penal Code stipulates, in article 48, that a minor aged under 13 years may only be subjected to protective or re-education measures. In the event of a contravention, the minor may only be given a warning. A minor aged between 13 and 18 years may be subject either to protective or re-education measures or to a reduced penalty.

11. Two other ordinances, promulgated in 1972, safeguard the rights of the child:

(i) Ordinance No. 72-03 of 10 February 1972 relating to the protection of children and young persons lays down (article 1) that "minors aged under 21 years whose health, security, morality or education is threatened, or whose living conditions or behaviour may jeopardize their future, may be the subject of protective and educational assistance measures";

(ii) Ordinance No. 75-64 of 26 September 1975 setting up establishments and services for the protection of children and young persons lays down (article 1) that "in order to protect children and young persons, the Ministry of Youth and Sports is responsible for implementing all protective measures for minors under the age of 21 whose living conditions and behaviour may jeopardize their social integration".

## II. GENERAL PRINCIPLES

### A. Non-discrimination (art. 2)

12. Paragraphs 1 and 2 of article 2 of the Convention on the Rights of the Child lay down that the rights of the child must be guaranteed without discrimination of any kind. The child must be protected against all forms of discrimination or punishment on the basis of the legal status, activities or expressed opinions of the child's parents, legal guardians or family members.

13. In Algeria, the child is protected, first of all, by the provisions of the Constitution that guarantee the protection of the citizen in general.

14. The Constitution states in its preamble that it is "above everybody" and that it is "the fundamental law that guarantees individual and collective rights and freedoms". It sets out to ensure legal protection and supervision of the action of the public authorities in a society in which legality and the full development of man in all dimensions prevail. The Constitution contains several provisions concerning rights and freedoms:

Article 28 states that: "Citizens are equal before the law, and there shall be no discrimination on grounds of birth, race, sex, opinion or any other personal or social condition or circumstance";

Article 30 lays down that: "The institutions shall seek to ensure the equality of rights and duties of all male and female citizens by eliminating the obstacles which impede the full development of the human personality and prevent the effective participation of all in political, economic, social and cultural life";

Article 33 guarantees the inviolability of the human person and forbids any form of physical or moral violence. This provision is supplemented by article 34 which proscribes offences committed against rights and freedoms and physical or moral attacks on the integrity of the human being.

Children are expressly mentioned in article 60, alongside the family and youth, with reference to respect for the right to honour and freedom.

15. Algeria is also party to many international legal instruments that embody rights connected with respect for the dignity and integrity of the human person. So that these universal provisions may be implemented nationally, Algeria has taken care to prohibit and eliminate all forms of racial discrimination and is striving to ensure and guarantee equality for all before the law and to permit the exercise of rights without distinction based on race, colour, language or gender:

Equal treatment in the courts (article 131 of the Constitution);

Safeguarding of citizens' rights and freedoms and protection of the inviolability of the human person against any form of physical violence;

The right of citizens of marriageable age to marry and raise a family. The Family Code stipulates in article 4 that "Marriage is a contract concluded between a man and a woman in legal form. Among its purposes is to found a family based on affection, kindness and mutual help, to provide moral protection for the spouses and to preserve family ties";

The right to nationality: article 29 of the Constitution and articles 6 and 7 of Ordinance No. 70-36 of 15 December 1970 establishing the Algerian Nationality Code;

Freedom of movement within the national territory, the right to enter and leave the national territory and protection abroad: articles 23 and 41 of the Constitution;

The rights of private property and inheritance: article 49 of the Constitution;

Inviolability of freedom of conscience and opinion: article 35 of the Constitution.

### B. Best interests of the child (art. 3)

16. The protection of the child is guaranteed, first and foremost, by the Constitution:

Article 60 calls for the protection of the family, young people and children;

Article 55 calls for the protection of the family as the basic unit for the development of the child;

Article 62 states that "The law sanctions the duty of the parents in the education and protection of their children";

Similarly, article 56 lays down, in social matters, that "The living conditions of citizens who cannot yet, can no longer or will never be able to work are guaranteed".

17. The Information Act No. 90-7 of 3 April 1990 contains a number of provisions that deal specifically with children:

Article 27 enables any institution concerned with human rights and the protection of children to initiate criminal indemnity proceedings;

Article 37 stipulates that a journalist cannot invoke professional secrecy before a judicial authority when the information in question relates to children or adolescents.

18. Articles 42 and 43 of the Civil Code state that "any person who does not possess discernment because of his young age or because of mental weakness or dementia shall not have capacity to exercise his civil rights". "A child who has not reached the age of 16 years is deemed not to possess discernment"; "a person who has reached the age of discernment without being of age, as well as a person who is of age but profligate or suffering from imbecility, shall have limited capacity to exercise civil rights in accordance with the provisions set out in law".

19. The interests of the child are also protected by the Family Code:

Article 82 lays down that the acts of persons who are not yet old enough to have reached the age of discernment shall be null and void;

Article 83 stipulates that the acts of a person who has reached the age of discernment without being of age, pursuant to article 43 of the Civil Code, are valid if they benefit that person and null and void if they prejudice that person; such acts require the authorization either of the legal guardian or of the testamentary guardian if there is any uncertainty regarding benefit or prejudice; any dispute is referred to the courts;

Article 88, concerning the administration of the assets of the child, sets out that "the guardian is required to administer the assets of his ward in the latter's best interest", and he may seek the authorization of the judge for certain acts, such as: sale, division, mortgaging and transaction, sale of movable assets of a certain value, commitment of capital belonging to a minor in the form of loans, borrowings or shareholdings; renting of the real property of a minor for a period of more than three years or for a period extending for one year beyond the minor's majority;

Article 89 permits the judge to authorize sale, bearing in mind the needs and interests of the minor, provided that the sale is by public auction;

Article 93, concerning testamentary guardianship, stipulates that "the testamentary guardian must be of the Islamic faith, judicious, capable, upright and a good administrator" and that "if he does not fulfil the aforesaid conditions, the judge may move for his dismissal";

Article 96, paragraph 5, states that his dismissal may also occur at the request of an interested party, if it can be proved that his administration jeopardizes the interests of the minor;

Article 98 states that "the testamentary guardian shall be liable for any damage to the assets of his ward resulting from his negligence".

20. The interests of the child are also protected against abuse by adults:

In order to protect girls against early marriage, article 7 of the Family Code stipulates that the marriageable age is 18 years;

In the event of the separation of the parents, article 62 provides for a right of custody, involving the maintenance, education and upbringing of the child in the father's religion and the protection of the child's physical and moral health;

Articles 64 and 65 establish custody on the basis that the interests of the child are better provided for by the devolution of custody to the persons best suited to exercise it, with the judge being empowered to evaluate the persons' aptitude;

Articles 66 to 68 set the conditions for the granting of custody and provide for the removal of custody in the interests of the child;

Article 69, which deals with travel, lays down that "if the person having custody wishes to elect domicile in a foreign country, the judge may confirm custody or remove custody, always taking into account the interests of the child".

21. Act No. 90-24 of 18 August 1990, amending the Code of Penal Procedure, sets out, in article 337, that the plaintiff may directly summon an accused person before the competent court in the event of family abandonment and non-representation of children. In other cases, a direct summons must be authorized by the government procurator.

### C. Right to life, survival and development

22. The right to life, which is basis of all human rights, is enshrined in articles 33 and 34 of the Constitution, which provide that "the State guarantees the inviolability of the human person. Any form of physical or moral violence is prohibited".

23. Offences committed against rights and freedoms and physical or moral attacks on the integrity of the human being are punishable by law:

Title II of Ordinance No. 66-156 of 8 June 1966, establishing the Penal Code, deals with crimes and offences against the person (murder, homicide, parricide and infanticide). Infanticide is considered by article 259 to be the murder or homicide of a newborn child;

Paragraph 2 of article 261 envisages a term of rigorous imprisonment of between 10 and 20 years for a mother who is the main perpetrator or an accomplice in the homicide or murder of her newborn child.

24. The right to life is also guaranteed to children at all stages in their development. Article 304 of the Penal Code prohibits abortion. Article 306 provides that, if the perpetrator of the offence under article 304 is a physician, midwife, surgeon, dentist, pharmacist, medical student, dental student, pharmacy student or employee, herbalist, bandage supplier, dealer in surgical instruments, male or female nurse, masseur or masseuse, and that person recommended, encouraged or practised the abortion, that person shall be punished, as applicable, in accordance with the provisions of article 304 or those of article 305, which doubles the term of ordinary imprisonment and raises to the maximum the term of rigorous imprisonment provided for in article 304. Any persons found guilty shall be banned from carrying on professional activities and may, in addition, have their residence permits revoked.

25. The death penalty is not carried out on pregnant women or women nursing children aged under 24 months. Stay of execution of criminal sentences in the case of pregnant women or women nursing children is provided for in article 16 of the Prison Organization Code.

26. Articles 314 to 320 of the Penal Code provide for punishment in cases of abandonment or neglect of children. Family abandonment and neglect of children are defined in article 330 as follows:

Where a father or mother "without grave cause abandons the family residence for more than two months or evades all or part of the moral or material obligations connected with parental authority of legal guardianship". The two-month period may be interrupted only by return to the family home with the intention of resuming family life on a permanent basis;

Where a husband "without grave cause, voluntarily abandons his wife for more than two months, in the knowledge that she is pregnant". Proceedings are initiated at the instigation of the abandoned spouse, and the penalty set out in the Penal Code is a term of imprisonment of between two months and one year and a fine of between 500 and 5,000 dinars;

Where a father and mother, regardless of whether parental authority has been removed from them, seriously jeopardize, by ill-treatment or lack of care, the health, security or morality of their children;

Failure to pay alimony is punished by article 331, which lays down a term of imprisonment of between six months and three years and a court fine of between 500 and 5,000 dinars.

### D. Respect for the views of the child (arts. 12 and 13)

27. Freedom of conscience and freedom of opinion for children are guaranteed in general terms by the Constitution as rights that apply to all individuals (art. 35). Restrictions comparable to those found in other countries are, however, imposed by legislation to protect the higher interests of the child and his security and moral and psychological equilibrium, as well as to maintain order, ensure respect for the law and protect morality.

## III. CIVIL RIGHTS AND FREEDOMS

### A. Name and nationality (art. 7)

28. Article 29 of the Constitution lays down that "Algerian nationality is defined by law". The law in question is Ordinance No. 70-86 of 15 December 1970 establishing the Algerian Nationality Code. Under articles 6 and 7 of that Code, the following are deemed to be Algerian:

A child born of an Algerian father;

A child born of an Algerian mother and an unknown father;

A child born of an Algerian mother and a stateless father;

A child born in Algeria to an Algerian mother and an alien father who was himself born in Algeria, unless the child rejects Algerian nationality within the year preceding his coming of age.

29. Article 8 lays down that "a child who is of Algerian nationality, by virtue of articles 6 and 7, is deemed to have been Algerian since birth even if the conditions required by law for the attribution of Algerian nationality were established only after birth". Qualification as "an Algerian national" from birth, as well as the withdrawal or renunciation of such qualification, pursuant to the provisions of article 6, paragraph 3, and article 7, paragraphs 1 and 2, "has no effect on the validity of any documents issued by the person concerned, or the rights acquired by third parties on the basis of the apparent nationality previously held by the child".

30. Article 17 stipulates that "minor children of persons who acquire Algerian nationality become Algerian at the same time as their parents".

31. Furthermore, the unmarried minor children of an Algerian who has resettled in Algeria, when they actually reside with that person, automatically acquire or reacquire Algerian nationality.

32. Persons seeking naturalization must comply with certain conditions:

They must have resided in Algeria for a period of least seven years on the date of the application;

They must be resident in Algeria when the decision granting naturalization is signed;

They must be of age;

They must have good moral character and never have been found guilty of any offence against morals;

They must possess sufficient resources to live on;

They must be healthy in body and mind;

They must justify their incorporation in the Algerian community.

The naturalization document may grant Algerian nationality to the minor children of a naturalized foreigner. However, the children may renounce Algerian nationality between the ages of 18 and 21.

33. As regards the naming of the child, Ordinance No. 70-20 relating to civil status stipulates, in article 61, that "Births shall be declared within five days to the registrar in the place of birth, offenders being subject to penalties". Article 60 lists the persons required to make this declaration and specifies that the birth certificate shall be drawn up immediately. Article 63 states that, in addition to the date, time and place of birth and the sex of the child, the birth certificate must state the child's given names. The child automatically takes his father's patronymic when the father is known. If no father or mother is in evidence, the person declaring the child shall choose its given names (art. 64).

34. Article 66 obliges anyone who has found a newborn child so to declare to the registrar in the place in which the child was found. For newborn children whose parents are not known, the registrar himself shall give the child his or her given names, and the last given name shall serve as patronymic (art. 64).

35. Decree No. 92-84 of 13 January 1992 supplemented Decree No. 17-157 of 3 June 1971 on name changes by including children without families. This law is designed to reduce the administrative formalities connected with a name change, to increase requests for adoption by families and to apply the notion of "*ius soli*" to a child whose parents are unknown or whose mother is known and father unknown.

36. Mention should also be made of the fact that, since 1992, the Algerian television service has provided media coverage for children who are looking for their parents.

### B. Preservation of identity (art. 8)

37. The right of the child to recognition of its legal personality, in all circumstances, is recognized and protected by the Constitution, specifically articles 30, 33, 34 and 37.

38. The Civil Code contains a number of provisions recognizing legal personality. Article 25 of the Civil Code states that personality begins upon the birth of a living child and ends at death. Paragraph 2 of that article adds that the child enjoys civil rights from conception, provided it is born alive. Birth and death are established by the civil registers. In the absence of such evidence or if the information they contain is imprecise, proof may be furnished by any other means (art. 26 of the Civil Code).

39. The Penal Code makes it a punishable offence to hinder the identification of an infant (art. 321). Anyone who moves a child, conceals a child or substitutes one child for another, or presents a child as having been born of a woman who has not given birth, is liable to a term of rigorous imprisonment of between five and 10 years. If it is not established that the child has survived, the punishment is imprisonment for between two months and five years. However, if the child has been presented as having been born of a woman who has not in fact given birth, when the child has been voluntarily surrendered or abandoned by its parents, the guilty person shall be liable to imprisonment for between two months and five years.

### C. Freedom of expression

40. Freedom of opinion and expression, as well as freedom of intellectual, artistic and scientific creation, are guaranteed by articles 35, 36 and 39 of the Constitution. Copyright is also guaranteed by law. The public exercise of these rights by a minor child requires the authorization of his guardian, in accordance with the Family Code.

### D. Access to appropriate information (art. 17)

41. Act No. 90-07 of 3 April 1990 stipulates that "the right to information shall be exercised freely, having due respect for the dignity of the human person, through any form of mass communication, including writing, radio, sound systems and television".

42. Article 2 sets out that "The right to information shall consist of the citizen's right to be informed fully and objectively of facts and opinions of interest to society at the national and international levels, and of the right to participate in information through the exercise of the fundamental freedoms of thought, opinion and expression in accordance with articles 35, 36, 39 and 40 of the Constitution". This definition of information covers both facets of the right to information: the right to inform and the right to be informed. By making them indissoluble, the legislature has enlarged the scope of this fundamental freedom.

43. This right is also acknowledged by article 3, which stipulates that it "shall be exercised freely with due respect for the dignity of the human person and the requirements of foreign policy and national defence".

44. National or foreign periodicals and specialized publications must not contain any illustration, report, information or insertion contrary to human rights or advocate racism; in addition, they must not contain any advertisement or announcement likely to promote violence or crime (art. 26). Institutions, agencies or approved associations responsible for the promotion of human rights and the protection of children may exercise the rights recognized to parties bringing criminal indemnity actions.

45. Furthermore, Executive Decree No. 91-101 of 20 April 1991, regulating television and radio broadcasting, sets out the following obligations:

> Article 3: television and radio must warn viewers and listeners, in an appropriate manner, of any programme or broadcast that is likely to cause offence;
>
> Article 5: television and radio must produce and schedule educational and teaching broadcasts for children and adolescents, obtaining the assistance of a consultative educational structure.

### E. Freedom of thought, conscience and religion (art. 14)

46. Freedom of thought, conscience and religion is guaranteed by Algerian law. However, article 2 of the Constitution lays down that "Islam is the State religion" and article 62 of the Family Code stipulates that "children shall be educated in the religion of their father".

47. These provisions in no way restrict freedom of worship and religion of communities of other faiths living in Algeria. These freedoms are respected and protected by the State:

> The Archdiocese of Algiers covers several dioceses, including Algiers (seven churches), Laghouat (one church), Oran (four churches) and Constantine (two churches);

The Jewish consistory is based in Algiers and there are two synagogues, one in Algiers and one in Blida.

48. The Penal Code makes insulting one or more persons belonging to a specific ethnic or philosophical group or religion a punishable offence (art. 298 *bis*). Similarly, the Information Act provides, in article 77, that anyone who, in writing or by sounds, images, drawings or any other direct or indirect means, offends against Islam and the other celestial religions is liable to criminal penalties (six months' to three years' imprisonment and/or a fine).

### F. Freedom of association and of peaceful assembly (art. 15)

49. Everyone has the right to associate freely with others, including the right to form and join trade unions.

50. The Associations Act, No. 31-90 of 4 December 1990, proclaims freedom of peaceful association and assembly. This Act prompted the establishment of 11 national associations to protect the rights of children, including:

The National Association for the Rights of Children;

The "SOS Villages-enfants" National Association;

The National Association to Assist Children and Young People;

The National Association to Protect the Health of Children.

### G. Protection of privacy (art. 16)

51. This right is protected by article 37 of the Constitution, which lays down that: "The privacy and honour of the citizen are inviolable and shall be protected by law. The secrecy of private correspondence and communication in all their forms is guaranteed".

52. Under article 38 of the Constitution the home is inviolable. No search may take place save by virtue of the law and in accordance therewith. Searches and inquiries are conducted subject to the procedures and conditions laid down in the Code of Penal Procedure (arts. 44 to 50 and 60 to 65).

53. Searches, domiciliary visits and seizures of evidence may not take place without the express consent of the person in whose home they occur. Article 122 of the Code of Penal Procedure states that: "An officer may not enter a citizen's home in execution of an arrest warrant before 5 a.m. or after 8 p.m.". The Penal Code provides, in article 135, that: "Any administrative or judicial official, any police officer or any commander or member of the security forces who, acting in that capacity, enters a citizen's home against that citizen's wish, except as provided and subject to the formalities prescribed by law, is liable to imprisonment for two months to one year and a fine of 500 to 3,000 dinars, without prejudice to the application of article 107". Article 107 makes arbitrary or freedom-infringing acts committed or ordered by a public servant punishable by five to 10 years' rigorous imprisonment.

### H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37)

54. Algeria is a party to numerous international instruments, including the African Charter on Human Rights and Peoples' Rights, the 1966 Covenants, the International Convention on the Elimination of all Forms

of Racial Discrimination, the Geneva Conventions of 1949, which contain specific provisions against torture and ill-treatment, and the International Convention against Torture and Other Cruel, Human or Degrading Treatment or Punishment of 10 December 1984. Algeria has made no reservations to the last-mentioned Convention and has recognized in full the competence of the Committee against Torture. It submitted its initial report in February 1991 and will submit its first periodic report in 1995.

55. In Algeria, the prohibition of torture is a constitutional principle, and various legal and other measures have been adopted fully to enforce this provision in law and in practice. All laws and regulations derive their inspiration from this principle of the total prohibition of torture and respect for the dignity and physical and moral integrity of the human personality. Acts of torture are criminal offences. No legal provision authorizes a State official to order or carry out acts of torture or other forms of violence or ill-treatment. Furthermore, the Penal Code and various laws, such as the Prison Reform Code, punish and/or prohibit abuses of authority as well as violations of human freedom or dignity. The Penal Code punishes acts of torture and other forms of violence and ill-treatment in articles 254 to 280, which provide for the punishment of murder and other capital offences and intentional acts of violence. Acts of torture are a capital crime punishable by death (art. 293 *bis*). There are specific provisions punishing persons guilty of violence against minors and of wilfully depriving minors of food or care in such a way as to jeopardize their health (arts. 269 to 272). The penalties are imprisonment for three to 20 years, depending on the consequences of the violence or deprivation. The penalty is life imprisonment in cases of unintentional homicide.

56. The death sentence is not imposed on minors aged between 13 and 18. Article 50 of the Penal Code sets out that "If it is decided that a minor aged between 13 and 18 must receive a criminal sentence, the following punishments shall be applied: if he is liable to the death penalty or life imprisonment, he shall be sentenced to 10 to 20 years' imprisonment". Article 49 stipulates that "a minor aged under 13 may be subjected only to protective measures or re-education measures".

57. With reference to guarantees for persons charged with criminal offences, the Constitution lays down, in articles 42 to 45, that an accused person:

> Has the right to be informed promptly and in detail in a language that he understands of the nature and cause of the charge against him;
>
> Shall be presumed innocent until proved guilty by a regular court with all the safeguards required by the law;
>
> May not be found guilty except by virtue of a law duly promulgated prior to the act of which he is accused;
>
> May not be prosecuted, arrested or detained except in the cases determined by law and in accordance with the procedures prescribed thereby.

Police custody shall be subject to judicial supervision and may not exceed 48 hours. A person in police custody shall have the right to get in touch with his family immediately. Police custody may not be prolonged as an exceptional measure save under the conditions fixed by law. Upon the expiry of the time-limit, it shall be mandatory to carry out a medical examination of the person detained, if he so requests, and he shall in all cases be informed of this option. Any person charged with a criminal offence has the right to be present during the trial and to defend himself in person or through legal assistance of his choosing (art. 454 of the Code of Penal Procedure).

58. The Penal Code also establishes penalties for violations of freedom committed by persons in the performance of their duties:

The Prison Reform and Rehabilitation Code (Ordinance No. 72-02 of 10 February 1972) stipulates: "Sentences in criminal proceedings may be executed only when the judgement has become final" (art. 8); "For a custodial penalty to be enforced, a copy of the judgement or decision shall be drawn up in order that the sentenced prisoner may be admitted to prison" (art. 11); "Every penal establishment shall keep a prison register" (art. 13); and "No official responsible for the re-education and social rehabilitation of prisoners may, under penalty of prosecution for arbitrary detention, detain a person without a proper detention order or a definitive sentence, previously recorded in the prison register" (art. 14);

Article 110 of the Penal Code establishes penalties for arbitrary detention in the following terms: "Any rehabilitation official in a prison establishment or in premises in which detainees are held who has accepted a prisoner without a lawful committal order, or has refused, without such refusal being justified by a prohibition order from the examining magistrate, to present the prisoner to the authorities or to persons authorized to visit him, or has refused to present records to the said authorized persons, is guilty of arbitrary detention and is liable";

Article 456 of the Code of Penal Procedure stipulates that "an offender who has not reached the age of 13 years may not, even provisionally, be placed in a prison establishment. An offender aged between 13 and 18 years may be placed provisionally in a prison establishment only if this measure seems indispensable or if it is impossible to make any other arrangement. In that case, the minor shall be kept in a special section or, failing this, in an area where the minor is, as far as possible, kept isolated at night".

## IV. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

### A. Parental guidance (art. 5)

### B. Parental responsibilities (art. 18, paras. 1 and 2)

59. The family enjoys the protection of the State and society (art. 55 of the Constitution). Article 2 of the Family Code defines the family as "the basic unit of society: it is composed of persons united by the bonds of marriage and of kinship". Article 62 of the Constitution sets out that "The law sanctions the duty of the parents in the education and protection of their children". Matters relating to the custody of children of a separated couple are covered by articles 62 to 72 of the Family Code. Articles 74 to 80 deal with maintenance and alimony. Negligence by the parents in the exercise of the duty to protect their children is covered by the Penal Code in articles 330 to 332 regarding family abandonment.

### C. Separation from parents (art. 9)

60. Article 4 of the Family Code defines marriage as a contract concluded between a man and a woman in legal form. Among its purposes is to found a family based on affection, kindness and mutual help, to provide moral protection for the spouses and to preserve family ties by safeguarding the interests of the family and by protecting the children and ensuring their healthy upbringing (arts. 4 and 36 of the Family Code). It is therefore natural that children should live with their parents, unless the best interests of the child or children provide grounds or justification for separation. No child may be separated from its family or parents except by legal decision.

61. Article 1 of Ordinance No. 72-03 of 10 February 1972 relating to the protection of children and young persons lays down that "minors under the age of 21 years whose health, security, morality or education is threatened, or whose living conditions or behaviour may jeopardize their future, may be the subject of protective and educational assistance measures". Only a juvenile magistrate may impose protection and assistance for children covered by this law (arts. 2 and 3). Provisional custody of the child may be decided by the magistrate (arts. 5 and 6). The magistrate may alter or postpone these measure at any time, at the request of the minor, his parents or the government procurator. "Once the investigation has been closed and the government procurator has received the file, the magistrate shall meet the minor and his parents or guardian, as well as any other person whose views are deemed relevant" (art. 9). "He shall make every effort to obtain the support of the minor's family for the procedure adopted." The juvenile magistrate shall issue his ruling in chambers. "When a minor is placed, temporarily or definitively, with a third party or in one of the establishments indicated in article 11 of this text, the parents, who have an obligation to provide for his needs, must contribute to his maintenance, unless poverty can be demonstrated" (art. 15).

### D. Family reunification (art. 10)

62. Article 41 of the Algerian Constitution provides that "Any citizen in possession of his civil and political rights shall be entitled to choose his place of residence freely and to travel within the national territory. He is guaranteed the right to enter and leave the national territory". The law imposes no limitations on the right of citizens to move freely throughout the national territory, and on their right freely to choose their place of residence and to leave and enter their country. The formalities for leaving the national territory comprise only the normal Customs and frontier police controls and possession of a travel document in proper form (valid passport). However, if the person having custody of a child born of a separated couple elects domicile in a foreign country, the judge may confirm custody or remove custody taking into account the interests of the child (art. 69 of the Family Code).

63. The freedom of movement of aliens in Algeria is also guaranteed, pursuant to Ordinance No. 66-211 of 21 July 1966 relating to the situation of aliens in Algeria, as supplemented by Ordinance No. 67-190 of 27 September 1967 and Ordinance No. 75-80 of 15 December 1975 relating to the enforcement of judicial decisions regarding residence and restricted residence. These provisions are of a general nature and, as such, are valid for all aliens who have lawfully entered Algeria, without need for recourse to an agreement. An alien may be deported only pursuant to a decision taken in conformity with the above-mentioned Ordinance No. 66-211, article 20 of which stipulates that "the expulsion of an alien from the national territory shall be pronounced by an order of the Ministry of the Interior". The deportation order must be notified to the person concerned. An alien who proves that he is unable to leave the national territory may, until such time as he is in a position to comply with the order, be compelled, by decree of the Ministry of the Interior, to reside in a place assigned to him (arts. 12 and 20 to 22). Article 13 of the same Ordinance establishes the principle that "an alien may reside and travel freely within Algerian territory", subject to the obligation to produce on request by agents of the authorities the evidence or documents authorizing him to reside in Algeria, and to report his domicile or any change of domicile to the police station or *mairie* of his place of residence.

### E. Recovery of maintenance for the child (art. 27, para. 4)

64. The education, maintenance and protection of children are guaranteed by the Constitution (art. 62). Failure to fulfil parental duty is therefore punishable (arts. 330 to 332 of the Penal Code).

65. The maintenance of the wife and children, both during marriage and after its dissolution, is governed by the Family Code. One of the husband's obligations, pursuant to article 37 of that Code, is to provide for the maintenance of the wife and children of the marriage. The law relating to maintenance provides, in article 74, that "the husband is required to ensure the maintenance of his wife as from consummation of the

marriage". Article 75 stipulates that "the father is required to provide for the maintenance of his child unless the latter has resources". Maintenance for male children is to be provided up to the age of majority. For female children, it is to be provided up to the consummation of marriage. The father is bound by this obligation if the child is physically or mentally handicapped or if the child attends school. This obligation ceases as soon as the child is able to provide for his own needs. Article 76 stipulates that "in the event of the incapacity of the father, the maintenance of the children is incumbent on the mother if she is in a position to provide for it". Article 78 lays down that "maintenance consists in food, clothing, medical care, housing or rent and anything else that is deemed necessary by practice and custom". In appraising maintenance, the magistrate considers the situation of the spouses and their living conditions. This appraisal may not be called in question within one year of the judgement (art. 79). Maintenance is due as from the date on which proceedings are initiated. It is the task of the magistrate to rule on the payment of maintenance, on the basis of the evidence, for a period not exceeding one year after the initiation of proceedings.

66. The right to recovery of maintenance is protected and guaranteed by a number of legislative texts. The Family Code organizes and regulates the provision of maintenance. The Penal Code punishes and penalizes parents who fail to fulfil this duty (arts. 330 to 332). The Code of Penal Procedure establishes the procedure for the recovery of maintenance (art. 337). The courts monitor the safeguarding of this right. Their decisions are notified to the parties residing in Algeria.

67. Algeria has signed a large number of judicial agreements on mutual assistance and legal cooperation with different countries. These agreements contain regulatory provisions on proceedings to enforce civil judgements handed down by the courts of one or other country that automatically have the force of *res judicata* on the territory of the other country, such as the Agreement between Algeria and France on Children Born to Mixed Couples, signed at Algiers on 21 June 1988.

### F. Children deprived of a family environment (art. 20)

68. Children temporarily or permanently deprived of their family environment or who, in their best interest, cannot be left in that environment, are taken into the care of the State institutions and qualify for special help. Ordinance No. 72-03 of 10 February 1972 relating to the protection of children and young persons lays down, in article 1, that "minors under the age of 21 whose health, security, morality or education is threatened, or whose living conditions or behaviour may jeopardize their future, may be the subject of protective and educational assistance measures". Ordinance No. 75-64 of 26 September 1975 setting up establishments and services for the protection of children and young persons stipulates, in article 1, that "in order to protect children and young persons, the Ministry of Youth and Sports is responsible for implementing all protective measures for minors under the age of 21 whose living conditions and behaviour may jeopardize their social integration".

69. In addition, Algerian legislation envisages another form of assistance and care for children deprived of their family environment, known as *kafala* or legal tutelage, provided for in Act No. 84-11 of 9 June 1984 establishing the Family Code, which states, in article 16, that "legal tutelage is the undertaking to assume charitable responsibility for the maintenance, education and protection of a minor child, as a father would for his son. *Kafala* is established by a legal act. The child taken into tutelage may be of known or unknown filiation. The child must retain his original filiation if his parents are known. If this is not the case, article 64 of the Civil Status Code shall apply." The holder of the right of legal tutelage may bequeath or donate up to one third of his property in favour of the child taken into tutelage.

70. If the father and the mother, or one of them, should seek to regain guardianship of the child involved, it is up to the child, if he has reached the age of discernment, to decide whether or not to return to his

parents. The child may be returned only if the magistrate so authorizes, considering the interests of the child, if he has not reached the age of discernment.

71. Article 125 of the aforesaid Act lays down that "an action to abandon legal tutelage must be placed before the court that established it, after notification of the government procurator. In the event of death, the right of legal tutelage shall be transmitted to the heirs if they undertake to provide it. If not, the magistrate shall give custody of the child to a welfare institution."

### G. Adoption

72. *Kafala* is the essential objective of the policy pursued by the Ministry of Labour and Social Welfare to assist children who are permanently deprived of a family. Care centres or nurseries are seen merely as a transitional stage between the mother and the adoptive family.

### H. Illicit transfer and non-return (art. 11)

73. Convinced of the need for children to have, in all circumstances, a regular and peaceful relationship with their separated parents, wherever they reside, Algerian legislation has endeavoured to ensure the best possible protection for the children and to guarantee the organization and effective implementation of visiting rights. Current Algerian legislation and the bilateral judicial agreements ratified by Algeria have broadened the scope of this protection.

#### 1. Algerian legislation

74. Article 69 of the Family Code lays down that "if the person having custody wishes to elect domicile in a foreign country, the judge may confirm custody or remove custody, taking into account the interests of the child".

75. A number of articles in the Penal Code provide penalties for non-return, removal and abduction of children. Article 327 states that "anyone having custody of a child who does not present the child to persons entitled to request presentation shall be liable to imprisonment for a term of between two and five years". Article 328 states that "when a court decision has been taken concerning provisional or definitive custody of a minor, the father, mother or any person who fails to present the minor to those entitled to request representation or who, even without fraud or violence, removes, abducts or arranges for the removal or abduction of the child from those to whom custody was awarded or from the premises in which the child was placed, shall be punished by imprisonment for a term of between one month and one year and a fine of between 500 and 5,000 dinars. If the person concerned had previously been stripped of paternal responsibility, the term of imprisonment shall be increased to three years." Article 329 provides for the punishment, except for cases where the act is a punishable act of complicity, of anyone who knowingly hides or conceals from discovery a minor who has been removed or abducted, or who hides him from the authority to which he is legally subject, by a term of imprisonment of between one and five years and/or a fine of between 500 and 2,500 dinars.

#### 2. Bilateral agreements

76. The Algerian courts monitor respect for and the guarantee of visiting rights and rights to the presentation of children. Relevant legal decisions are notified to the parties concerned residing in Algeria by the usual procedural channels.

77. Bilateral judicial agreements on mutual assistance and legal cooperation have been signed by Algeria with a number of countries and all contain regulatory provisions on the execution of decisions taken by the courts in one or other country that automatically have the force of *res judicata* on the territory of the other country. The Agreement between Algeria and France on Children Born to Separated Mixed Couples establishes the best interests of the child as its cardinal objective and provides, in particular, for the following:

Intervention free of charge;

Commitment by the parties to:

Facilitate the search for the child in question;

Provide information on the social situation of the child or the judicial procedure concerning the child;

Facilitate any amicable solution to ensure the return of the child or visiting rights;

Promote the organization or the effective implementation of visiting rights;

Ensure that the child is returned to the plaintiff when the implementation of the decision is accorded;

Inform the central requesting authority of the steps taken and measures adopted;

Facilitate the effective exercise of visiting rights accorded to a citizen of another State on its territory or from its territory.

### I. **Abuse and neglect** (art. 19), **physical and psychological recovery and social reintegration** (art. 39)

78. The protection of children is covered by a number of provisions of the Constitution which guarantee the protection of citizens in general. Article 23 of the Constitution provides that "The State is responsible for the security of every citizen, whose protection abroad it must ensure". Article 33 guarantees the inviolability of the human person and prohibits any form of physical or moral violence. This provision is supplemented by article 34, according to which "Offences committed against rights and freedoms and physical or moral attacks on the integrity of the human being shall be punishable by law". Article 62 states that "The law sanctions the duty of the parents in the education and protection of their children".

79. A series of articles of the Penal Code relate to intentional violence, which is punished by appropriate penalties (arts. 264 to 267). There are specific provisions punishing persons guilty of violence against minors and of wilfully depriving minors of food or care in such a way as to jeopardize their health (arts. 269 to 272). The penalties are imprisonment for between three and 20 years, depending on the consequences of the violence or deprivation. The penalty is life imprisonment if death results unintentionally from a habitual practice. However, "If the striking, wounding, violence, assault or deprivation was committed with intent to cause death, the offender shall be punished as for murder or attempted murder" (art. 271).

80. Various articles concern kidnapping and sequestration (arts. 291 to 292). If the victim of the kidnapping, arrest, detention or sequestration has been physically tortured, the offender is liable to the death sentence (art. 293).

81. The Penal Code also prescribes punishment for the exposure and neglect of children (arts. 314 to 320), the kidnapping and non-presentation of minors (arts. 326 to 329), abandonment of the family (arts. 330 to 332), immoral acts (arts. 333 to 335) and rape. Thus, rape is punishable by five to 10 years' imprisonment. This penalty may be increased to 20 years if the rape was committed against a girl aged under 16. If the rapist is a relative of the victim or a person with authority over her, this constitutes a further aggravating circumstance (arts. 336 to 337). A homosexual act with a minor aged under 18 years is punishable by imprisonment for a term of three years and a fine of 10,000 dinars.

82. Slavery, servitude and forced or compulsory labour are alien to contemporary Algerian society. Algeria is party to the international conventions prohibiting slavery, servitude, forced or compulsory labour or other similar practices, and in particular the following: the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others; the 1926 Slavery Convention and the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the 1921 Convention for the Suppression of the Trade in Women and Children; Convention No. 29 on Forced Labour (1930); and Convention No. 105 on the Abolition of Forced Labour (1957).

83. In addition to these conventions, which now form an integral part of Algerian substantive law, a number of legal measures have been adopted in order to ensure respect for human rights and freedoms, in accordance with these international standards:

Algerian criminal law focuses in particular on the suppression of the trade in human beings and the exploitation of prostitution; it contains specific articles to punish the incitement of minors to vice and soliciting (arts. 342 to 349 of the Penal Code);

The Civil Code stipulates, in article 96, that "The contract shall be null and void if its purpose is contrary to public order and morals".

84. Rehabilitation measures for the victims of prostitution are adopted by the Ministries of Justice and Health, which have established several specialized departments to assist the following groups: young women convicted of prostitution, if the judge decides to place them in an institution, potential victims of sexual deviance who seek help; young women placed in institutions to remove them from the consequences of prostitution or sexual deviation; young women who, after investigation, prove to have been, or are liable to be, victims of sexual deviance. These institutions provide social, health, psychological and educational care for the internees, while ensuring their vocational rehabilitation so as to enable them to resume normal life.

**Physical and psychological recovery and social reintegration** (art. 39)

85. Independent of the tasks and responsibilities of the different sectors and institutions dealing with the problems of young people, the Ministry of Youth and Sports has three specific approaches to help this section of the population:

Increased psychological counselling and support for young people in difficulty;

Support for and expansion and diversification of efforts to prevent and control crime, drug addiction, tobacco addiction and alcoholism;

Health education campaign aimed at young people;

Establishment of a structure to receive, assist and support juvenile delinquents and drug addicts, to help them break away from the group to which they originally belonged and include them in vocational rehabilitation activities.

### J. Periodic review of placement (art. 25)

86. Decree No. 80-59 of 8 March 1980, on the creation, organization and operation of medical-pedagogical centres and specialized centres for handicapped children, established medical-pedagogical boards "to guide medical and psychological treatment, educational, re-educational and teaching activities". They monitor the development of children and recommend to the directors of the centres any individual or collective pedagogical and medical-pedagogical measures. Ordinance No. 75-64 of 26 September 1995 setting up establishments and services for the protection of children and young persons provides for physical and mental protection for children placed by court order. Decree No. 76-101 of 25 May 1976, setting up the commission to safeguard and protect children and young persons, lays down the rules for the periodic examination of children placed in an establishment. The child support centres, set up by Decree No. 80-83 of 15 March 1980, are administered by boards comprising psychologists, educators and physicians. A number of interministerial decrees define the rules for cooperation between the staff of the ministries concerned with the monitoring of children placed in specialized establishments.

## V. BASIC HEALTH AND WELFARE

### A. Survival and development (art. 6)

87. The rate of population increase, which reached 3.6 per cent per annum in the 1970s, is dropping, but is still very high: 2.4 per cent in 1992, with a birth rate of 3 per cent. This increase is accompanied by a reduction in budgetary resources because of lower petroleum income and the debt-servicing burden.

88. The Government's efforts have therefore focused on sustaining essential measures to help children survive. The following objectives have been fixed for the year 2000:

Reduction in the mortality rate to 3.5 per cent, particularly through a reduction in the rate of neonatal mortality;

Reduction in cases of transmissible diseases that can be prevented by vaccination, elimination of neonatal tetanus and eradication of poliomyelitis;

Fifty per cent reduction in cases of serious malnutrition and 30 per cent reduction in cases of moderate malnutrition;

Reduction of shortages of trace nutrients (iodine, iron, vitamins A and D);

Fifty per cent reduction in mortality caused by diarrhoea and respiratory infections among children aged under five years;

Reduction in the number of children weighing less than 2,500 grams at birth;

Fifty per cent reduction in the mortality rate of mothers, estimated at 1.4 cases per thousand births in 1990;

Increase to 60 per cent in the proportion of married women using family planning methods.

89. The following measures have been adopted and the following programmes implemented to achieve these objectives:

Broader vaccination programmes;

Organization of annual workshops to combat poliomyelitis;

Preparation and implementation of a plan of action for nutrition, involving various sectors (health, education, agriculture and water supply);

Programme to monitor pregnancy and to detect risk pregnancies;

Improvement of basic health-care programmes;

Preparation and implementation of a social communication programme;

Promotion of an intersectoral approach.

### B. Disabled children

90. Social activities of the State to assist disabled children take a number of forms and involve both national solidarity (State, local communities, public and private institutions and humanitarian associations) and international solidarity (cooperation programmes with UNICEF, SOS-Kinderdorf International, Arab Office for Children, etc.).

91. The Ministry of Labour and Social Welfare is active in a number of fields. Children with handicaps are not subject to any discrimination. They are allowed to use transport free of charge. Education in schools and in appropriate centres is free of charge and is compulsory, as it is for other children. Disabled people are included in technical and further education. In order to satisfy the needs expressed, 23,200 places have been set aside.

92. The Ministry of Health implements specific programmes with regard to the prevention and early detection of handicaps.

### C. Health and health services (art. 24)

93. The right to health care is a constitutional right (article 51 of the Constitution).

94. Access to care is an ongoing concern of the Algerian Government, which has extended the basic public health infrastructure and promoted medical and paramedical training so that Algeria now has one physician for every 1,060 inhabitants and one paramedic for every 314 inhabitants. In Algeria there are 13 university hospital centres, 19 specialized hospital establishments, 184 hospitals, 56 clinics, 455 polyclinics (186 of which have maternity beds), 1,123 health-care centres and 3,876 care units. Private practitioners make up 25 per cent of the body of physicians.

95. More specifically as regards children, Act No. 85-05 of 16 February 1985 on health protection and promotion lays down their right to health and to protection in the family, in the education and training environment and in prison.

96. A bilateral agreement signed between the Ministry of Health and Population and the Ministry of Education promotes the development of health care at school and the provision of teaching to children in hospital. Other agreements, on care for children in occupational training courses and in prisons, are being prepared.

97. One of the concerns of the State has been to ensure that the recent political and socio-economic reforms that accompanied the change-over to a market economy have no negative impact on child health. The State's responsibility in the field of prevention has been maintained and the examination and hospitalization of children aged under five years, or children covered by national prevention programmes, are still free of charge.

98. Algeria's public health organization is based on the principle of a hierarchy of care and the existence of public health regions. The basic public health unit is the "public health sector", which is a geographical entity that embodies basic health-care structures and a hospital. Primary health care for children is provided in basic care units, on an individual basis, in the form of a programme. The hospitals in each *wilaya* (prefecture) and the specialized and university hospitals provide secondary and tertiary care. The current trend is to group together specialized paediatric services in the towns under the umbrella of "children's hospitals".

99. Since 1992, various initiatives have been undertaken to give children a more important place in the public health and hospital services. Firstly, "friends of babies" hospitals have been promoted and, secondly, a national agency, the "Centre to Monitor the Rights of the Mother and Child", has been established.

## D. Social security and child-care services and facilities
(arts. 18, para. 3, and 26)

### 1. Right to social security

100. With regard to health insurance, the social security system applies not only to active wage-earning or non-wage-earning individuals, but also to certain categories of the population, such as the disabled, students, trainees and apprentices in occupational training. Children taken into care under the *kafala* (adoption) system qualify in the same way as legitimate children.

101. This system is supplemented by family allowances for wage earners with dependent children, with State funding, as well as activities organized by the mutualist movement and the welfare agencies of enterprises.

(a) **Assistance to particularly low-paid workers**. This is based on two types of aid and support: allowances funded by the State budget and social assistance for the disabled, children without families and disinherited, infirm and incurable elderly people. This last category accounts for 0.3 per cent of the State budget.

(b) In 1994, a new arrangement, the so-called "**social net**", was set up. This is a form of social protection for the less well-off, giving priority to households and people living alone who are in difficulty or without income and live in socially vulnerable locations. The first sort of aid, in the form of a lump-sum solidarity allowance, is for heads of families and people living alone who are over the age of 60 and also to disabled people who cannot work. The second form of aid, in the form of an allowance for activities of general interest, is granted to heads of family of employment age. This payment represents 52.5 per cent of the guaranteed national minimum wage and is paid to heads of families with children.

(c) **Other assistance**: Social security, which also covers the cost of artificial limbs, and assistance provided by the social services of local communities, the Algerian Red Crescent and other associations.

### 2. Child-care facilities and services

102. The State expects local communities to provide child-care nurseries. The communities administer and finance such facilities. Alongside the Ministry of the Interior, which is responsible for the administrative supervision of such nurseries, the Ministry of Education monitors the establishment of teaching programmes.

## E. Standard of living (art. 27, paras. 1 to 3)

103. In order to shelter children, as far as possible, from the effects of the economic difficulties affecting Algeria, a number of measures have been adopted: provision of more and better school canteens, particularly in rural areas; provision of more schools with boarding facilities to enable children to have a balanced diet; provision of free medical care in the public health centres.

# VI. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

## A. Education, including vocational training and guidance (art. 28)

### 1. The right to education

104. Article 4 of the Ordinance of 16 April 1976 on the right to education stipulates that "every Algerian citizen has the right to education and training. This right is ensured by the general provision of basic education". Article 5 states that "education is compulsory for all children aged between six and 16 years". Article 7 lays down that "education is free of charge at all levels, regardless of the type of establishment attended".

105. The level of school attendance among children aged between six and 13-15 years rose from 45.9 per cent in 1966-1967 to 81.5 per cent in 1991-1992. The combined figure for school attendance at all levels rose from 1,129,642 in 1966-1967 to 7,021,396 in 1992.

### 2. Vocational training

106. Vocational training involves the mobilization of the necessary resources to satisfy the demand for training, principally for young people who can no longer continue in the education system (aged over 16 years).

107. The vocational training sector is made up of 389 establishments: 333 apprenticeship and vocational training centres, two administrative training centres, 29 national specialized vocational training institutes; and six vocational training institutes for the training and further training of trainers. The vocational training sector currently has 122,000 places. The National Distance Vocational Training Centre has a capacity of 45,000 and there are evening course places for 4,500 students.

108. The vocational training sector is backed up by private sector training, which has increased since the publication of Decree No. 91-141 of 11 May 1991 fixing the conditions for setting up and monitoring approved vocational training establishments.

## B. Aims of education (art. 29)

109. Article 3 of the Ordinance on the right to education stipulates that the educational system must "inculcate in young people the principles of justice and equality among citizens and peoples, and inspire them

to combat any form of discrimination; provide an education which promotes understanding and cooperation among peoples for universal peace based on respect for the sovereignty of peoples; develop education in accordance with human rights and fundamental freedoms".

**Teaching programmes**

110. As a consequence of the recent changes, human rights have taken on the character of a struggle for democratic freedoms, for the exercise by individuals of their individual freedoms and for the enjoyment of their constitutional rights to express their opinions. It therefore became necessary for schools to adapt their teaching to all aspects of human rights.

111. Algerian schools do not merely give pupils theoretical knowledge, through the teaching they receive (history, geography, social education and languages), they also link teaching to practical applications and enable the pupil to experience the exercise of these rights through a variety of activities, such as the election of class representatives, participation in the school magazine, pupil information, guidance and other pedagogical and scientific activities. The teaching programmes are designed to take account of all aspects of the universal values of freedom, justice, respect for others and human rights.

### C. Leisure, recreation and cultural activities (art. 31)

112. The Ministry for Youth and Sports supervises a number of activities provided for young people:

Cultural, scientific and artistic activities organized in youth and cultural centres;

Artistic teaching, music, drawing, plastic arts, dramatic arts, choreography and photography;

Artistic education, amateur cinema, theatre, culinary arts, amateur radio, reading for all and communication;

Dissemination of scientific knowledge, astronomy, ecology, electronics, data processing, museology, fish-breeding, etc.;

Religious education and discovery of the heritage of civilization;

Organization of courses to promote integration and incorporation in community life using techniques such as instruction in an artistic skill (silk painting, silk-screen printing, book binding, calligraphy, sculpture or sport (swimming, cross-country bicycle riding, table tennis, skiing, chess, bowls);

Holiday programmes for young people, with youth camps, to encourage mobility among young people. They provide young people from underprivileged strata of society in high-population districts with the opportunity to get out and about for purposes of relaxation and education;

The establishment of so-called "proximity" sporting facilities based on simple sports infrastructures to supplement the socio-educational resources of cities and districts and the training of sports organizers.

## VII. SPECIAL PROTECTION MEASURES

### A. Children in conflict with the law

113. Criminal cases involving minors are governed by specific rules for juvenile delinquency contained in book III of the Code of Penal Procedure (arts. 439 to 494). Under articles 447 to 450, every court comprises a juvenile section, composed of the juvenile magistrate, presiding, and two co-magistrates. Article 491 stipulates that proceedings shall be held *in camera*, once the parties have been heard. The decision is also rendered *in camera* (art. 493) and every case is tried separately in the absence of all the other defendants (art. 498). The juvenile section reaches a decision after having heard the minor, the witnesses, the parents, the tutor or guardian, the government procurator and the defence counsel. It may, if the minor's interest so requires, dispense the minor from attending the hearing (art. 497). No child may be suspected, accused or convicted of an offence against criminal law because of actions or omissions that were not prohibited by national or international law when they were committed. This principle is guaranteed by article 43 of the Constitution and by article 1 of the Penal Code, which states that "In the absence of law there can be no breach of law, nor any penalties or security measures".

114. Any child suspected or accused of offences against criminal law has the right to the following guarantees:

He is presumed innocent until proved guilty according to law: article 42 of the Constitution states that "Every person shall be presumed innocent until proved guilty by a regular court and with all the safeguards required by the law";

As regards the establishment of guilt, article 453 of the Code of Penal Procedure lays down that "the juvenile magistrate shall take all necessary steps and make all necessary investigations to arrive at the truth, become acquainted with the personality of the minor and determine the measures to be adopted for the re-education of the minor"; to this end, he shall either make an official investigation or follow the procedure indicated for the preparatory examination. He may take all necessary steps in accordance with the rules of ordinary law.

115. Article 458 of the Code of Penal Procedure stipulates that "when the juvenile magistrate considers that the facts constitute neither a serious nor an ordinary offence or that there is not sufficient evidence against the offender, he shall order a non-suit as set out in the law".

116. An accused minor is to be informed of the accusation against him according to article 100 of the Code of Penal Procedure. Article 454 lays down that the juvenile magistrate shall notify the parents, tutor or guardian of the proceedings initiated against the minor. If the minor or his legal representative fails to appoint defence counsel, the magistrate or the representative of the bar association, at the behest of the magistrate, shall appoint an official defender. He may ask for a social investigation by the social services or by persons holding a social service certificate or empowered to that effect.

117. If the juvenile magistrate considers that the facts constitute an offence, he shall refer the matter to the juvenile section sitting in chambers. The proceedings shall be held *in camera*, the parties shall be heard and the minor must appear in person, assisted by his legal representative or counsel.

118. Any minor prosecuted for a criminal offence has the right to examine, or have examined, the witnesses for the prosecution and to obtain witnesses for the defence under the same conditions as the witnesses for the prosecution. This right is recognized during the pre-trial stage and during the trial stage.

119. An accused minor is entitled not to be forced to testify against himself or to confess guilt.

120. Any minor charged with a criminal offence has the right to be assisted, free of charge, by an interpreter if he does not understand the language used in the proceedings. Various articles of the Code of Penal Procedure contain provisions pursuant to this right, which is recognized also for the deaf and mutes (arts. 91 to 95 and 108 to 298) at all stages of the proceedings. The interpreter is obliged to take an oath if he is not sworn (art. 91).

121. If the pleadings indicate that the offence is not attributable to the minor, the juvenile magistrate is to end the case. If, however, the pleadings indicate the minor's guilt, the juvenile section is to state this expressly in the judgement, admonish the offender and return him to his parents, his tutor or the person who had custody or, in the case of an abandoned minor, a person worthy of trust. The juvenile section may also order non-custodial supervision for the minor, either provisionally, for one or more trial periods of a duration fixed by the section, or definitively up to an age of not more than 19 years. The juvenile section may order this decision to be implemented notwithstanding appeal. The final decision is rendered *in camera* and may be appealed within 10 days of its announcement in the court.

122. In order to safeguard the minor's privacy, Algerian legislation stipulates that the proceedings shall be held and the decision rendered *in camera* (arts. 461 and 493 of the Code of Penal Procedure). The publication of the record of juvenile court proceedings in books or the press, on radio or film, or through any other medium is prohibited. The publication by the same means of any text or illustration concerning the identity or personality of juvenile offenders is also prohibited (art. 477), under pain of criminal sanction. The judgement may be published but the minor's name may not be indicated, even by initials.

123. As already mentioned, the legal procedure applicable to minors is governed by the provisions of book III of the Code of Penal Procedure (rules on juvenile delinquents). Their objective is to protect children and they make allowance for the desirability of re-educating them.

124. Article 442 sets the age of majority in criminal proceedings at 18 years. Article 443 stipulates that the age to be used in determining criminal majority is the age of the offender on the date of the offence.

125. Article 444 states the principle that "In the case of a serious or ordinary offence, a minor aged under 18 years may be subjected only to one or more of the precautionary or re-education measures listed below:

Restoration to his parents, his legal guardian or a person worthy of trust;

Non-custodial supervision;

Placement in an authorized institution or public or private education or vocational training establishment;

Placement in an authorized medical or medical-pedagogical establishment;

Placement by the public service responsible for assistance;

Placement in a boarding school suitable for juvenile delinquents of school age."

A minor aged over 13 may, however, also be placed in a public supervised-education or corrective-education institution.

126. Article 465 of the Code of Penal Procedure lays down that "in the case of a serious or ordinary offence, if the minor has co-perpetrators or accomplices who are of age and the examining magistrate has conducted inquiries concerning all of them, he shall refer the latter to the competent ordinary law jurisdiction. The case against the minor shall be separated and heard by the juvenile section." Decisions issued by the juvenile court are recorded in a special non-public register kept by the clerk of the court (art. 489).

127. Decisions involving protection or education measures are placed on the individual's legal record. However, they are indicated only on the bulletin No. 2 made available to magistrates to the exclusion of any other public administration or authority. If the individual concerned has given guarantees of good behaviour, the juveniles section may, after a period of five years as from the end of the protection or re-education measure, decide, at the request of the party concerned, or the government procurator, or *proprio motu*, to dispose of the bulletin No. 1 mentioning the measure in question. If such disposal is ordered, the bulletin No. 1 relating to the measure is destroyed.

**Sentencing of juveniles, in particular the prohibition of capital punishment and life imprisonment** (art. 37 (a))

128. An examination of the legal provisions of the Algerian Penal Code and the various ordinances mentioned earlier shows that the Algerian legal system pays special attention to the age of the minor and his situation as a child.

129. As far as criminal liability is concerned, under article 50 of the Penal Code the death sentence is not imposed on minors aged between 13 and 18:

> "If it is decided that a minor aged between 13 and 18 must receive a criminal sentence, the following punishments are applied:
>
> If he is liable to the death penalty or life imprisonment, he shall be sentenced to 10 to 20 years' imprisonment;
>
> If he is liable to imprisonment for a fixed term, he shall be required to serve half of the penalty that would be imposed on an adult".

Pursuant to article 49 of the Penal Code, "a minor aged under 13 may be subjected only to protective measures or re-education measures" and "no criminal action may be initiated against a child aged less than 13 years".

## B. Treatment of children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37 (b) and (c))

130. The rules applicable to the treatment of children who are deprived of their liberty are governed by the following:

### 1. Ordinance No. 72-02 of 10 February 1972 establishing the Prison Reform and Rehabilitation Code

131. By the promulgation of this Code, Algeria reaffirms its attachment to respect for individual freedoms and to the principle of the legality of penalties, the upholding and enforcement of which are vested in the judiciary.

132. The preamble to the Code states that, in determining the regulations applicable to the treatment of detainees, it follows the recommendations of the United Nations and, in particular, the resolutions adopted on 30 August 1955 at Geneva and approved on 31 July 1957 by the United Nations Economic and Social Council.

133. The Code emphasizes the objective of enforcement of criminal sanctions as a means of defending society but also of contributing to the re-education of offenders and helping them to readjust in order to return to their place in their family, at work and in society. These provisions ensure the protection of detainees, who are a particularly vulnerable category of persons, against torture and all similar acts and practices or acts of an inhuman, cruel or degrading nature.

134. Prisoners are sent to and classified within prisons on the basis of their penal status, the seriousness of the offence, their age, their personality and the extent to which they have reformed (art. 24 of the Prison Reform Code).

135. In accordance with article 28, specialized centres for minors have been established to take in minors accused or sentenced in connection with offences who, unless otherwise expressly indicated by the Ministry of Justice, have not reached the age of 21 years (art. 29).

136. All the establishments, apart from preventive establishments when the distribution of the premises does not permit it, have one or more special sections for minors.

137. Chapter III of the Prison Reform Code deals with the reintegration of minors. Article 21 stipulates that "minors, in respect of whom definitive criminal sentences have been pronounced, shall serve their term of imprisonment in appropriate establishments known as specialized centres for the reintegration of minors". The staff of these centres is made up of warders who have received appropriate training, psychologists, educators, monitors, instructors and welfare assistants. The diet must be healthy and balanced. The hygiene and cleanliness of the premises are continuously monitored. The centres have infirmaries with specialized medical and paramedical staff. The minors are provided with education in the establishment and their vocational training complies with the legislation applicable to non-offenders of the same age. The minors may not be given additional work and they must never be called upon to work at night. They receive annual leave that they may spend in a holiday centre. They may also spend official holidays with their families. Any minor who disobeys the rules of operation of the centre may be punished only by reprimand or suspension of visiting rights for a maximum of 45 days. Each specialized centre for the reintegration of minors has a re-education committee, chaired by the juvenile magistrate, with the task of organizing the annual education and vocational training programmes and making any necessary changes. Each minor must have not only an administrative record, but also a re-education record. The cost of keeping, educating and training minors who have received criminal sentences and been placed in the specialized centres for the reintegration of minors is borne by the State, unless the decision embodying the sentence makes other provisions.

### 2. Ordinance No. 72-03 of 10 February 1972 relating to the protection of children and young persons and children in situations of emergency

138. Alongside minors who have infringed the law by their criminal activities, covered by Ordinance No. 72-02 of 10 February 1972 establishing the Prison Reform and Rehabilitation Code, there is another category of children and young people who live a potentially criminal existence and for whom urgent educational measures must be adopted as a preventive measure. These measures are set out in Ordinance No. 72-03 of 10 February 1972 relating to the protection of children and young persons, which is designed to protect and assist minors who have not yet come up against the law, but whose security, morality or education is threatened or whose living conditions or behaviour may jeopardize their future.

139. This text gives the juvenile magistrate broader powers to deal with maladjusted children. Intervention by this specialized magistrate may have a salutary effect on children and young people in danger and prevent juvenile delinquency. The matter is referred to the magistrate through an application by the parents or guardian of the minor, government procurator, the officials responsible for non-custodial supervision or the President of the Communal Assembly (art. 2). In addition, the juvenile magistrate may intervene *proprio motu*. This prerogative, which is given by law, means that he has full freedom to act in order to detect and protect a minor who is in danger. He has very wide-ranging decision-making powers and may order the minor to be entrusted to:

His father or his mother not having custody, provided that the right of custody has not been removed from them;

Another relative or a person worthy of trust;

A public service providing assistance to children;

A public establishment or an educational, vocational training or care institution (arts. 5 and 6).

The magistrate may also order that the placement of the minor with his parents or a person worthy of trust be supplemented by observation by an education and non-custodial supervision service and, to this end, he may appoint an educator to monitor the minor in his family, at school or, if applicable, at work (art. 5). The magistrate may alter any measures adopted at any time. This possibility of changing the decision frees a magistrate from any narrow procedural constraint and enables him to act at all times in the exclusive interest of the child (art. 8).

### 3. Ordinance No. 75-64 of 26 September 1975 setting up establishments and services for the protection of children and young persons

140. In order to support the action of the juvenile magistrate in the areas of prevention and social protection, Ordinance No. 75-64 of 26 September 1975 sets up a commission, in each protection and re-education establishment for minors, with the task of coordinating the treatment and education programmes for the children placed therein. Known as the "educational action commission", it is chaired by the juvenile magistrate (art. 17). Meetings are called by the chairman at least once a month.

141. In order to protect children and young people, the Ministry of Labour and Social Welfare has the task of implementing measures to protect minors under 21 years of age whose living conditions and behaviour may jeopardize their social integration. To enable the Ministry to perform this task, Algerian legislation has provided for various establishments and services: specialized re-education centres, specialized protection centres, services providing observation and education in an open environment and multi-purpose centres to protect young people.

142. Juvenile magistrates and courts are alone empowered to order permanent or provisional placement in the aforesaid centres and services. In no event may provisional placement (defined by article 455 of the Code of Penal Procedure and by articles 5 to 7 of Ordinance No. 72-03 of 10 February 1972) exceed six months. Any decision on permanent placement must be preceded by a social survey by the service providing observation and education in an open environment or an observation report on an individual interned or in an open environment.

143. The specialized re-education centres provide boarding accommodation and are designed to take in minors aged under 21 years who have been the subject of one or more protection or re-education measures

listed in article 444 of the Code of Penal Procedure. These centres have an observation service, whose task is to study the minor's personality and the problems he has, a re-education service, which provides the minor with moral, civic and sports education and educational and vocational training to assist his reintegration, and an after-care service, with responsibility for the social reintegration of the minor after he has been re-educated (pending the end of the protection or re-education measure, the service may place minors outside the establishment).

144. The specialized protection centres are establishments that provide boarding accommodation and are designed to take in, for the purpose of education and protection, minors who have been the subject of one of the measures set out in articles 5, 6 and 11 of Ordinance No. 72-03 of 10 February 1972. These centres offer the same services as the centres described earlier and have the same tasks and purposes.

145. The services providing observation and education in an open environment take in minors who are subject to non-custodial supervision, pursuant to a decision by the juvenile magistrate or the court. Minors placed in these centres are young offenders or young people in moral danger. These services cooperate with the specialized services mentioned earlier and undertake research and activities to prevent juvenile crime. They have a consultation and educational guidance section and a reception and sorting section. In particular, they monitor the health of the minors entrusted to them, as well as their work and education and the proper use of their leisure time.

146. The multi-purpose centres to protect young people constitute a group of specialized re-education centres, specialized protection centres and services providing observation and education in an open environment. They operate according to the same procedures and have the same services as the centres mentioned earlier.

147. There are currently about 3,000 young people in these centres. An additional programme, with 1,080 beds, has been set up to provide a better response to the needs noted.

148. Ordinance No. 75-64 of 26 September 1975 defines the procedure for placing a minor in a centre. On arrival, the minor is handed over to the observation service. A file is prepared with information on the minor's civil status, behaviour, health, level of education, vocational training and family relationships. A report on the minor's behaviour is sent to the competent judge at the end of the observation period. The report must indicate the measures recommended to pursue the minor's education. A half-yearly report is sent, under the same conditions, to the magistrate competent regarding minors in re-education, education or after-care service. This report and the proposals it contains give the juvenile magistrate guidance on any changes that may be necessary in the interests of the minor. Minors placed in centres may be entitled, according to article 35 of the aforesaid ordinance, to permission to leave the centre, given by the juvenile magistrate, at the request of the parents or the legal guardian and subject to the approval of the director of the establishment. The director of the establishment may, after consulting the educational action commission, grant the minor annual leave for a period not exceeding 45 days during the summer. The establishments pay the transport costs for minors who are allowed out on parole, on leave or on trips.

### C. Physical and psychological recovery and social reintegration (art. 3)

#### 1. Social reintegration

149. Article 1 of Ordinance No. 72-03 of 10 February 1972 relating to the protection of children and young persons stipulates that "minors aged under 21 years, whose health, security, morality and education are threatened or whose living conditions or behaviour may jeopardize their future, may be the subject of protection and educational assistance measures".

150. In addition to the custody measures set out in article 10 of this ordinance and articles 393 and 394 of the Code of Penal Procedure, the juvenile magistrate may appoint a service providing observation, education or re-education in an open environment to monitor the minor and to give him the protection and assistance necessary for his education, training or health.

151. The juvenile magistrate may also rule definitively on placement in a care centre, in a service to assist children or in an establishment or an institution providing education, vocational training or care.

152. Article 38 of Ordinance No. 75-64 of 26 September 1975 relating to establishments and services for the protection of children and young persons states that "a minor who has been the subject of a permanent placement may be placed outside, after consultation with the educational action commission, to carry on an educational or vocational activity. In this case, the minor may be accommodated by his employer, in the establishment itself, or with a third party."

153. An apprenticeship contract is drawn up in accordance with current legislation, in triplicate, on plain paper and without cost. One copy is retained in the establishment, one is held by the minor and one by the employer. A duplicate of the contract is sent by the director of the establishment to the competent juvenile magistrate. The contract must indicate the remuneration paid to the minor (art. 38). The director of the establishment is responsible for the ongoing supervision of the re-education of the minor, his living conditions and his vocational or school activities. He monitors compliance by the employer with the clauses of the apprenticeship and work agreement and informs the educational action commission of progress in the minor's training (art. 40).

154. In compliance with articles 482 and 486 of the Code of Penal Procedure and article 13 of Ordinance No. 72-03 of 10 February 1972, the competent court may, after examining the report on the minor's progress (article 29 of Ordinance No. 75-64 of 26 September 1975) and the proposals embodied therein, make any necessary changes in the interests of the minor.

### 2. Children in situations of exploitation, including physical and psychological recovery

#### (a) Economic exploitation, including child labour (art. 32)

155. It is incumbent on the State to protect children against any work that endangers their health, education or development and the State has therefore set minimum ages for admission to employment and minimum conditions of employment.

156. Article 15 of Act No. 90-11 of 21 April 1990 on employment relations stipulates, in particular, that "the minimum age for recruitment may in no case be less than 16 years, except by virtue of apprenticeship contracts established in accordance with current legislation and regulations. A minor worker may be recruited only on presentation of an authorization issued by his legal guardian. The minor may not be employed in dangerous, unhealthy or harmful work or work that may jeopardize his morality."

#### (b) Drug use (art. 33)

157. Article 192 of Act 85-05 of 16 February 1985 relating to the protection and promotion of health stipulates that "it is forbidden for any importer, producer or manufacturer of essences that may be used in the manufacture of alcoholic beverages to sell or offer, free of charge, such products to any persons other than beverage manufacturers who are authorized to hold such products by the administration, the indirect taxation service, pharmacists, the perfume trade and direct export organizations".

158. The sale of such products, in kind, on the national market, is prohibited to all such categories, with the exception of pharmacists who may issue them on medical prescription after recording the requirements pertaining thereto in their prescription register.

159. Anyone who contravenes the provisions of article 190 of the Act relating to the production, transport, import, export, holding, supply, possession, acquisition and use of non-narcotic poisonous plants or substances may be punished by a term of imprisonment of between two months and two years and a fine of between 2,000 and 10,000 dinars.

160. Anyone who contravenes the regulations in article 190 relating to poisonous substances that are classified as narcotics may be punished by a term of imprisonment of between two and 10 years and a fine of between 5,000 and 10,000 dinars.

161. Article 243 provides for rigorous imprisonment of between 10 and 20 years and a fine of between 5,000 and 10,000 dinars for "anyone who illicitly manufactures, prepares, processes, imports, passes in transit, exports, stores, brokers, sells, dispatches, transports or markets narcotics in any form".

162. Imprisonment for a term of between two and 10 years and a fine of between 5,000 and 50,000 dinars applies in the following cases:

To a person who assists a friend to use such narcotic plants or substances, whether for payment or free of charge;

To a person who, by means of fictitious or accommodation prescriptions, obtains the supply or attempts to obtain the supply of such plants or substances;

To a person who, knowing that the prescriptions are fictitious or for accommodation, supplies such substances or plants on presentation of such prescriptions.

When a minor is assisted in the use of such plants or substances or when such substances or plants have been supplied, under the conditions set out in the preceding section, the term of imprisonment shall be five to 10 years; the illicit use of one of the substances or plants classified as narcotics may be punished by a term of imprisonment of between two months and one year.

163. The courts may, when passing sentence for the offences mentioned above, also apply additional penalties:

Prohibition on the exercise of civil rights for five to 10 years;

Prohibition on carrying on a profession, if it was used as cover for committing the offence, for a period of five years;

Residence prohibition;

Withdrawal of passport or suspension of driving licence;

Confiscation of the substances and plants seized;

Confiscation of furniture, installations, utensils and any items used to manufacture and transport the substances or plants, subject to the rights of third parties.

164. In the case of a repeat offence, the aforesaid penalties shall be doubled.

165. Article 248 states that "when the nature of one of the offences indicated in articles 243 and 244 is such as to jeopardize the moral health of the Algerian people, the sentence shall be capital punishment".

166. Article 250 allows the examining magistrate or the juvenile magistrate to impose detoxification treatment, with any medical supervision or recovery measure that may be appropriate.

167. In addition, Decree No. 276 of 1984, issued by the Ministry of Health, includes drug addiction in the list of notifiable diseases.

168. The conditions governing the treatment are fixed jointly by the Ministries of Justice, the Interior and Health.

169. In the case of proceedings in connection with one of the crimes indicated in articles 242 to 244 of Act No. 85-05, the examining magistrate may order, as a provisional measure, for a period of not more than six months, the closure of any hotel, lodging house, guest house, beverage supply establishment, restaurant or club of any kind that is open to the public or used by the public, in which the crimes were committed by the person in charge or with that person's complicity. This closure may be extended under the same conditions and for the same duration. If the operator of any of the premises mentioned earlier is sentenced, the court may withdraw his operating licence.

170. Incitement, in writing, by sound or in pictures brought into the country or broadcast from abroad and received in Algeria, makes the perpetrators liable to legal proceedings pursuant to the Penal Code. An alien may be barred from entering Algerian territory for a period of between one and 10 years if he has been sentenced for any of the crimes indicated in articles 242 to 245 of the aforesaid law. The ban may be made permanent.

**(c) Sexual exploitation and sexual abuse** (art. 34)

171. Article 342 of the Penal Code stipulates that "anyone who incites, promotes or facilitates vice or corruption involving persons under 19 years of age shall be liable to five to 10 years' imprisonment and a fine of 500 to 25,000 dinars".

172. The Penal Code is even more severe when minors are involved, since it establishes the same penalties for attempts to commit these offences as it does for the actual offences.

173. Indecent assault committed or attempted on the person of a minor aged under 16 years is punishable by imprisonment for a term of five to 10 years. An adult relation who commits indecent assault on the person of a minor, even a minor aged 16 years, but not emancipated by marriage, shall be liable to rigorous imprisonment for between five and 10 years. Indecent assault committed or attempted with violence against the person of a minor aged under 16 years is punishable by rigorous imprisonment for between 10 and 20 years.

174. Rape committed against a minor aged under 16 years is punishable by rigorous imprisonment for between 10 and 20 years. If the guilty parties are adult relations of the victim, if they have authority over her, if they are her teachers or hired servants, or those of the persons mentioned above, if they are public officials or religious ministers or if the guilty party has been assisted in his crime by one or more persons, the punishment is rigorous imprisonment for a period of between 10 and 20 years in the case of indecent

assault without violence on a minor aged under 16 years and life imprisonment in the case of indecent assault with violence on a minor or rape.

**(d) Other forms of exploitation** (art. 36)

175. The Constitution protects citizens against all forms of exploitation. It guarantees their equality before the law and there is to be no discrimination on grounds of birth, race, sex, opinion or any other personal or social condition or circumstance.

176. The institutions of the State are to seek to eliminate the obstacles which impede the full development of the human personality and to protect the citizen against any impairment of his rights and freedoms, as well as physical or moral attacks (Constitution, art. 30).

**(e) Sale, trafficking and abduction** (art. 35)

**Sale and trafficking**

177. Algerian legislation contains a set of measures designed to eradicate such practices by focusing on their causes and consequences. Article 36 of the Civil Code stipulates that "the contract shall be null and void if its purpose is contrary to public order and morals". Under criminal law the trade in human beings and the exploitation of prostitution are punishable (arts. 342 to 346). It contains specific provisions to punish the incitement of minors to vice and soliciting.

178. Algeria has signed the International Conventions for the Suppression of the Traffic in Women and Children (1971) and for the Suppression of the White Slave Traffic, and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949).

**Abduction**

179. A whole section of the Penal Code is devoted to violations of personal freedom, abduction, kidnapping and sequestration. Article 291 establishes penalties for kidnapping, arbitrary detention or sequestration in the following terms: "Any person who kidnaps, arrests, detains or sequesters another person without an order from the established authorities, except in those cases authorized or ordered by law, shall be sentenced to rigorous imprisonment for five to 10 years". The same penalty applies to any person who allows a place to be used in order to detain or sequester the person concerned.

180. It should be noted that the wording of this article in no way makes it possible to justify such acts by an order received, as the conditions laid down are specific: individuals may not be arrested without an order from the established authorities or in circumstances other than those allowed by law.

181. If the arrest or kidnapping has been carried out by a person or persons wearing an official uniform or insignia or items that appear to be official under the terms of article 246 of the Penal Code, or using a false identity or a false order from the authorities, the penalty is life imprisonment. The same penalty applies if the arrest or kidnapping was carried out using motor transport or if the victim was threatened with death (art. 292). If the victim of the kidnapping, arrest, detention or sequestration was physically tortured, the offenders are liable to the death penalty (art. 293).

182. Any person who, through the use of violence, threats or fraud, kidnaps another person or causes another person to be kidnapped, regardless of that person's age, is sentenced to from 10 to 20 years' rigorous

imprisonment. If the purpose of the kidnapping was to obtain payment of a ransom, the offender is liable to the death penalty (art. 293 *bis* of the Penal Code).

### D. Children belonging to a minority or an indigenous group (art. 30)

183. Since Algeria became independent in 1962, censuses have never been conducted on the basis of ethnic, religious or linguistic criteria. However, this policy is not based on a restrictive view of the Algerian character, which is recognized as rich and varied in its traditions, features and origins.

184. The Constitution states that "Algeria is a Democratic People's Republic; it is one and indivisible". Articles 2 and 3 stipulate that Islam is the religion of the State and that Arabic is the national and official language. Other provisions bring out the fact that, in addition to its Arab and Islamic culture, Algeria also recognizes its Berber culture and its kinship with Africa and the Mediterranean.

185. Finally, the Constitution establishes freedom of conscience, opinion, cultural, intellectual and scientific creativity, expression, association and assembly, as well as the other fundamental freedoms and human rights.